

**PUBLIC INTEREST LAW
CENTER OF PHILADELPHIA**

125 South Ninth Street • Suite 700 • Philadelphia, PA 19107 • Phone: 215-627-7100 • Fax: 215-627-3183

October 4, 2000

Michael Churchill
Chief Counsel

ADMINISTRATIVE COMPLAINT

Jerome Balter
Lionel A. Dyson
Thomas K. Gilhool
Judith A. Gran
Max P. Lapertosa
Barbara E. Ransom
Marinda van Dalen
Attorneys

Via Airbourne Express

Carol M. Browner, Administrator
U.S. Environmental Protection Agency
401 M Street, S.W.
Washington, DC 20460

Ann E. Goode, Director
Office of Civil Rights (1201)
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Heather M. Bendit
*Director of
Development*

RE: Administrative Complaint Pursuant to 40 CFR § 7.10

Dear Ms. Browner and Ms. Goode:

David Smith
*Chairman of
the Board*

Edwin D. Wolf
*Executive Director
1974-1976*

Attached is an Administrative Complaint alleging that the New Jersey Department of environmental Protection (N.J. DEP) has been and continues to be in violation of its contractual obligation to the U.S. EPA pursuant to EPA's Title VI Regulation, 40 C.F.R. § 7.80.

In this case, the N.J. DEP gave tacit approval to a permit applicant to construct his facility without a permit in an area of Camden, New Jersey in which 80 percent of the population is minority. As of this writing, N.J. DEP has issued no permit but the facility construction has been completed.

Also attached for your information is a copy of a complaint to the New Jersey Department of Environmental Protection alleging inter alia that N.J. DEP has not promulgated a Grievance Procedure as required by EPA's Title VI regulation 40 C.F.R. § 7.90(a) and that N.J. DEP is using criteria for evaluating compliance with Title VI that is in contradiction to EPA's policy and contrary to N.J. DEP's Administrative Order No. 2000-01 on the subject of Environmental Equity.

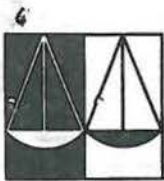
Very truly yours,

Jerome Balter
Director, Environmental Law Project

JB/jm
attachment

Affiliated with the
Lawyers Committee
for Civil Rights
Under Law

cc: Olga Pomar, Esquire
Professor Sheila Foster



**PUBLIC INTEREST LAW
CENTER OF PHILADELPHIA**

125 South Ninth Street • Suite 700 • Philadelphia, PA 19107 • Phone: 215-627-7100 • Fax: 215-627-3183

October 4, 2000

Michael Churchill
Chief Counsel

Jerome Balter
Lionel A. Dyson
Thomas K. Gilhool
Judith A. Gran
Max P. Lapertosa
Barbara E. Ransom
Marinda van Dalen
Attorneys

Heather M. Bendit
*Director of
Development*

David Smith
*Chairman of
the Board*

Edwin D. Wolf
*Executive Director
1974-1976*

ADMINISTRATIVE COMPLAINT

Ann E. Goode, Director
Office of Civil Rights (1201)
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dear Ms. Goode:

This is an Administrative Complaint pursuant to EPA's Civil Rights Regulations, 40 C.F.R. § 7.10 et seq. The Complaint is against the New Jersey Department of Environmental Protection (N.J. DEP) and the Complainant is South Camden Citizens in Action (SCCA) a community organization whose members reside in Census Tract No. 6018 and in adjoining census tracts. The individual complainants are [REDACTED]

I. INTRODUCTION

SCCA herein alleges that N.J. DEP has been and continues to be in violation of the assurances which it gave to the EPA in return for EPA's grant of federal financial assistance to N.J. DEP, 40 C.F.R. § 7.80. These assurances include:

- (a) The assurance that N.J. DEP will not use criteria or methods of administering its environmental programs which have the effect of discriminating against minorities, 40 CFR § 7.35 (b); and
- (b) The assurance that N.J. DEP will not choose a site for a facility which has the effect of discriminating against minorities, 40 CFR § 7.35(c); and
- (c) The assurance that N.J. DEP will adopt grievance procedures that assure the prompt and fair resolution of complaints which allege violation of EPA's Civil Rights regulations, 40 CFR § 7.90(a).

Affiliated with the
Lawyers Committee
for Civil Rights
Under Law

II. N.J. DEP's VIOLATION OF ASSURANCE TO COMPLY WITH 40 C.F.R. § 7.35(b)

On August 23, 2000, the N.J. DEP convened a public hearing to receive public comments with respect to N.J. DEP's Proposal to Approve Air Pollution Control Permits to Construct and Certificates to Operate for the St. Lawrence Cement Company's (SLCC) proposed Granulated Blast Furnace Slag Grinding facility to be located at 2500 Broadway, City of Camden, Camden County, New Jersey. The proposed facility is to be in Census Tract 6018; in the area of South Camden known as Waterfront South. The facility is to receive slag at a waterfront pier located just north of census tract 6018 and the slag is to be trucked several miles south to the grinding facility location in Census Tract 6018. (See Exhibit A)

Though the August 23 public hearing was ostensibly held in respect to N.J. DEP's proposal to issue construction permits and operation certificates for the SLCC facility, the large audience was informed that SLCC had, in fact, already constructed the grinding facility without any N.J. DEP permit, but with the knowledge and acquiescence of N.J. DEP. See N.J.S.A. 26:2C-9.2j and regulation N.J.A.C. 7.27-8.24.

Neither N.J. DEP's Public Notice (Exhibit B) nor N.J. DEP's Fact Sheet (Exhibit C), provide any information regarding the criteria or methods of administration N.J. DEP employed in its review of SLCC's permit applications regarding Civil Rights compliance. But the fact that N.J. DEP's documents do not contain even such elementary data as the racial and ethnic composition of the residents of Census Tract 6018 provide strong evidence that N.J. DEP did not use criteria and methods of administration which would prevent a discriminatory effect on racial and ethnic minorities. 40 CFR § 7.35(b).

Had N.J. DEP properly investigated SLCC's permit applications in respect to civil rights N.J. DEP would have learned that Census Tract 6018 has a population of 2351 of which 80% are African-American minorities and Hispanic minorities; whereas in Camden County outside of the City of Camden the population is 414,000 of which only 12% are African-American and Hispanic minorities.

Knowledge of these disparate percentages of minority populations would have alerted N.J. DEP to make further civil rights investigative comparisons between Census Tract 6018 and the census tracts in Camden County. These investigations, we allege, would show that Census Tract 6018 and the adjoining census tracts have (a) a greater concentration of polluting facilities, (b) a greater concentration of hazardous substance releases, (c) a greater concentration of contaminated sites, (d) a greater concentration of

diesel truck traffic on city streets, (e) a greater percentage of residents with asthma, particularly among the children; and (f) a population with substantially poorer public health compared to that of the residents of Camden County outside the City of Camden

Neither the Public Notice (Exhibit B) nor the N.J. DEP Fact Sheet (Exhibit C) indicate that N.J. DEP investigated any of these conditions before proposing to grant SLCC the permits to construct and the certificates to operate.

The N.J. DEP documents related to the SLCC permit/certificate applications do not indicate whether N.J. DEP attempted to apply EPA's *Interim Guidance for Investigating Title VI Administrative Complaints (Interim Guidance)*, 2/4/98; or EPA's *Assistance Recipients Administering Environmental Permitting Programs (Draft Recipient Guidance)* (65 Fed. Reg. 39655)(6/27/00); or EPA's *Draft Revised Guidance for Investigating Title VI Administrative Complaints Challenging Permits (Draft Revised Investigative Guidance)* (65 Fed. Reg.) 39667) (6/27/00)

And the N.J. DEP's documents do not provide any information as to any investigation the N.J. DEP may have made to determine whether the grant of permits and certificates to SLCC would violate N.J. DEP's own Administrative Order 2000-01, February 8, 2000, on the subject of Environmental Equity. (Exhibit D).

The criteria actually used by N.J. DEP to determine whether the grant of permits and certificates for SLCC would violate EPA's Title VI Regulations was orally declared at the August 23, 2000 Public Hearing by Ms. Iclal Atay, N.J. DEP's Chief of the Bureau of Air Quality Engineering. She declared that if the proposed SLCC facility, in conjunction with other area facilities, did not produce a violation of ambient air quality or violation of toxic release standards then there could not be any violation of EPA's Title VI regulations.

This criteria is incorrect on two counts. It is wrong because, in fact, the large increase in truck traffic required by the SLCC facility would tend to increase the ozone problems in an area which has been and still remains in non-attainment for ozone.

And, the N.J. DEP criteria, as stated by Ms. Atay, is also incorrect because the EPA has explicitly rejected criteria which equate compliance with environmental law with compliance to the EPA's Title VI requirements. The EPA, in its *Draft Recipient Guidance* declares:

Enforcement of civil rights laws and environmental laws are complementary.... (Emphasis added). 65 Fed. Reg. 39656 (6/27/00)

And in its *Draft Revised Investigative Guidance*, the EPA declares:

Compliance with environmental laws does not constitute per se compliance with Title VI... Title VI is concerned with how the effects of the programs and activities of a recipient are distributed based on color or national origin. A recipient's Title VI obligation exists in addition to the Federal or State environmental laws governing the environmental permitting program... (Emphasis added) 65 Fed. Reg. 39680 (6/27/00)

N.J. DEP's Environmental Equity order was developed in response to the EPA's Interim Guidance (February 1998) which the EPA had proposed as an adjunct to its Title VI civil rights regulations. The N.J. DEP's order defines Environmental Equity as follows:

Environmental Equity means the fair and equitable treatment in environmental decision making of the citizens of all New Jersey communities regardless of race... (emphasis added).

N.J. DEP's Environmental Equity order, therefore, requires N.J. DEP to investigate whether the grant of a permit will advance or detract from the fair and equitable treatment of all New Jersey communities. But N.J. DEP, apparently, has not yet adopted such an investigation protocol into its permit application review process. See N.J. DEP's 2000-01, p. 2) (Exhibit D). Nonetheless, it is clear that the Environmental Equity order does not equate Environmental Equity with conformance to environmental laws and regulations because such an interpretation would tolerate untold environmental disparities and inequities among the communities even though no environmental standards were violated in any community.

Even without formal promulgation of criteria for complying with Title VI regulations or to New Jersey's Environmental Equity order a common sense investigation of relevant and easily obtainable environmental equity facts would have revealed to N.J. DEP that Census Tract 6018 has a population in which minorities are four times the white population; that Census Tract 6018 has a very large number of contaminated waste sites and large numbers of waste processing, storage and disposal facilities including a very large trash incinerator. It would also reveal that Census Tract 6018 contains a sewage treatment facility that serves all of Camden County but concentrates its nauseating, sickening odor emissions on the residents of Census Tract 6018.

Investigation would also reveal that in Census Tract 6018 and adjoining census tracts there is a particularly high rate of asthma among the residents, particularly the

children. And it would reveal that PM-10 particulate has a very negative effect on persons with asthma. Such investigation is particularly needed in respect to the SLCC facility because at least 60 tons per year of PM -10 particulates will be released into the community environment from the SLCC operations and this will produce an increase of 38 percent in the ambient air concentration of PM-10. This is so significant an increase that the SLCC facility would use up 92 percent of all the allowable PM-10 increment for the entire area.

There is no evidence in N.J. DEP's documents that N.J. DEP investigated the health effects of this enormous increase in ambient PM-10 on the health of the residents of Census Tract 6018, particularly on the children with asthma and other respiratory diseases.

And a common sense investigation by the N.J. DEP would also show that the percentage of low weight babies born to residents of the City of Camden is 50% higher than the rate for residents of Camden County outside the City. (Exhibit E) And this data strongly suggests that total mortality, cancer mortality and infant mortality rates are similarly higher in the City than in the County. (The N.J. Health Dept. has not published this data for the City of Camden).

Not only has the N.J. DEP bypassed its own Environmental Equity protocol, it has also bypassed the stated health goal of the State of New Jersey. On May 24, 2000, the New Jersey Health Department issued a statement for reducing or eliminating health disparities between minorities and white residents in the state. (Exhibit F). The granting of permits and certificates for the SLCC facility is therefore, not only in violation of Federal Civil Rights Laws, it is in violation of N.J. DEP's Environmental Equity protocol and in violation of the goal of the N.J. Department of Health.

If N.J. DEP acted in conformance with its own protocol and with the goal of the New Jersey Department of Health, it would not grant SLCC a permit.

The Hispanic population of the City of Camden (1990 census) is 27273, which is 31 percent of the entire city of Camden population. In Census Tract 6018, residents of Hispanic origin comprise 25 percent of the population. Despite this large percentage of Hispanic persons residing in the area that would be affected by the SLCC facility, the N.J. DEP, to the best knowledge of complainants, did not publish any materials relevant to the SLCC permit application in the Spanish language. This failure on the part of N.J. DEP demonstrates that N.J. DEP uses a method of administration, in respect to Title VI, that discriminates against ethnic minority residents in violation of EPA regulation 40 C.F.R. § 7.35(b)

III. VIOLATION OF N.J. DEP's ASSURANCE TO COMPLY WITH 40 C.F.R. § 7.35 (b), (c)

As previously noted, SLCC had constructed its cement grinding facility in Census Tract 6018 before it had obtained a construction permit. N.J. DEP was aware that the SLCC facility was substantially completed by the date of the Public Hearing, August 23, 2000. According to N.J. DEP, this pre-permit construction is in conformance with New Jersey's Air Pollution Control Act, N.J.S.A. 26:2C-9.2j. That statute reads as follows:

Except as otherwise prohibited by Federal Law, any person who has submitted an application for a permit to construct...may place that equipment...on the footings or foundations...during the pendency of the permit application review process...(emphasis added)

According to the statute, pre-permit construction is allowed unless prohibited by Federal Law. Therefore, N.J. DEP has the power to prohibit pre-permit construction if such construction violates Federal Law. None of the N.J. DEP documents provided the public indicate that N.J. DEP made an investigation as to whether the construction of the SLCC would violate Federal Law. Such an investigation, of necessity, would have to include an investigation as to whether the SLCC facility would violate the Civil Rights Act of 1964, 42 U.S.C. § 2000d et seq and the EPA's Title VI regulations. 40 CFR § 7.01 et seq.

N.J. DEP's failure to provide an opportunity for community involvement and participation in the permitting process before N.J. DEP gave SLCC tacit approval to proceed with construction without a permit is in violation of the EPA's Title VI regulations and guidance for community involvement at the earliest possible time. And the tacit pre-permit approval to construct is in violation of N.J. DEP's Environmental Equity order which also calls for early community involvement in the permit application review process. N.J. DEP's actual administrative practice, therefore, demonstrates that it is not designed to prevent civil rights violations as required by 40 CFR § 7.35(b).

Additionally, N.J. DEP's tacit approval of SLCC's pre-permit construction of its cement grinding facility in census tract 6018 makes N.J. DEP complicit in selection of that site which has the effect of discriminating against the minority residents of Census Tract 6018 and adjoining census tracts in violation of 40 CFR § 7.35(c).

**IV. VIOLATION OF N.J. DEP'S ASSURANCE
TO COMPLY WITH 40 C.F.R. § 7.90**

EPA's Title VI Regulation, 40 C.F.R. § 7.90 (a), provides that:

Each recipient shall adopt grievance procedures that assure the prompt and fair resolution of complaints which allege violation of [40 C.F.R. § 7.10 et seq.]

Complainants are not aware of a grievance procedure which N.J. DEP may have created for hearing civil rights grievances as required by 40 C.F.R. § 7.90(a). Whether N.J. DEP does or does not have such a procedure, the documents provided to the public before or at the August 23 Public Hearing do not make any mention of such a procedure or the methods for using this procedure.

Accordingly, N.J. DEP is violating its assurance to EPA that it will comply with all aspects of the EPA's Title VI regulations, including 40 C.F.R. § 7.90(a).

V. REQUESTED RELIEF

N.J. DEP has been receiving federal financial assistance from the EPA for N.J. DEP's environmental programs on an annual basis. In exchange for these benefits N.J. DEP has pledged to comply with EPA's Title VI regulations which require N.J. DEP not to use criteria and methods of administration which have a discriminatory effect on racial and ethnic minorities. 40 CFR § 7.80. Despite these assurances, N.J. DEP has used and continues to use criteria and methods of administration which have the effect of discriminating against minority populations or N.J. DEP has failed to establish criteria or methods of administration with which to prevent discriminatory effects against minority populations. See 40 CFR §§ 7.35(b), (c), 7.90(a).

Accordingly, the complainants, South Camden Citizens in Action, and individual complainants, respectfully request the Office of Civil Rights (OCR) of the EPA to immediately employ its enforcement and remedial powers as follows:

1. EPA should exercise its regulating powers pursuant to 40 C.F.R. § 7.130(a) to request the Department of Justice to seek an injunction that would prohibit N.J. DEP from issuing permits or certificates to build or operate the SLCC facility pending a determination whether a permit or certificate would violate the Civil Rights Act, 42 U.S.C. § 2000d et seq. and EPA's Regulation 40 CFR § 7.10 et seq.

2. EPA should use its regulatory and oversight powers, pursuant to 40 C.F.R. § § 7.85 (b), 7.115 to investigate whether N.J. DEP's criteria (or non-criteria) and methods of administration (or non-administration) are adequate and sufficient to prevent the grant of permits of construction and certificates of operation which have a discriminatory effect against racial and ethnic minorities.
3. EPA should declare that N.J. DEP's tacit approval of the pre-permit construction of SLCC's facility in an area where minorities constitute more than 50 percent of the population is a violation of EPA's Title VI regulations.
4. EPA should prohibit N.J. DEP, hereafter, from allowing pre-permit construction of any facility if the proposed facility site is in an area where minorities are more than 50 percent of the population.

VI CAVEAT

The EPA's *Draft Recipient Guidance* urges state permitting agencies to develop:

Meaningful public participation early and throughout the decision making process...to identify and resolve issues and to assure proper consideration of public concerns.

65 Fed. Reg. at 39656. And, N.J. DEP's Environmental Equity Protocol appears to implement EPA's suggestion when it states:

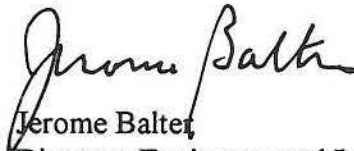
[N.J. DEP] will participate in discussions among permit applicants and local community stakeholders and attempt, where appropriate and permitted by law, to include in permit conditions that reflect agreements reached between the permit applicants and the local community stakeholders as to Environmental Equity issues.

Administrative Order 2000-01, p. 3.

Unfortunately, the N.J. DEP's promise was not fulfilled in practice because the N.J. DEP documents do not inform the community about whether such discussions occurred, and if they occurred, what proposals were developed for inclusion in the conditions to be made integral part of the proposed permits and certificates.

Without such an open process, it will be impossible to develop meaningful community support or cooperation.

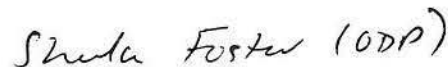
Respectfully submitted,



Jerome Baltet
Director, Environmental Law Project
Public Interest Law Center of Philadelphia
125 S. 9th Street, Suite 700
Philadelphia, PA 19107



Olga Pomar, Esquire
Camden Legal Services
745 Market Street
Camden, NJ 08102



Professor Sheila Foster
Rutgers-Camden School of Law
4th and Penn Sts.
Camden, NJ 08101

JB/jm
attachments

14R-00-R2

ST. LAWRENCE CEMENT
ADMINISTRATIVE COMPLAINT

EXHIBITS

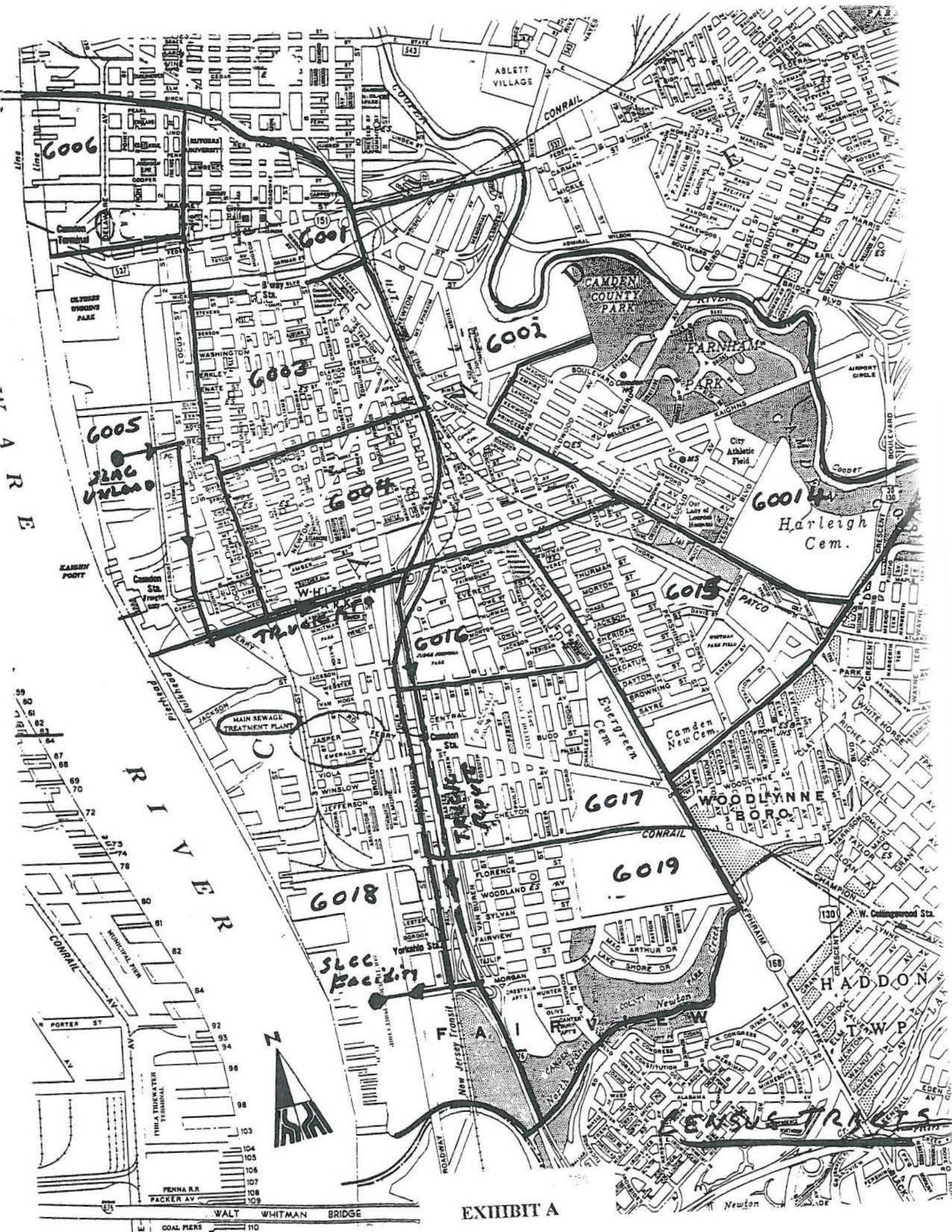


EXHIBIT A



State of New Jersey

Christine Todd Whitman
GovernorDepartment of Environmental Protection
Bureau of Air Quality Engineering
New Jersey Department of Environmental Protection
CN 027
Trenton, New Jersey 08625RECEIVED
DEPRobert C. Shinn, Jr.
Commissioner

2000 JUL 28 P 1:50

AIR COMP. & ENF.
SOUTHERN REG. OFFICE

July 25, 2000

TO: Edward Choromanski, Regional Enforcement Officer
Southern Regional OfficeFROM: Icial Atay, Chief
Bureau of Air Quality Engineering *IZ f--*REFERENCE: Air Pollution Control (APC) Permit
to Construct and Certificate to Operate
Applications for the St. Lawrence Cement Company L.L.C.,
Facility, Camden, Camden County, Plant Identification Number 51588
Preconstruction Permit (PCP) Application Numbers 990001, 990002,
990004, 990005, 990006

The New Jersey Department of Environmental Protection (Department) is proposing to issue APC Permits and Certificates to St. Lawrence Cement Company, L.L.C. The APC Permits and Certificates would allow the processing of granulated blast furnace slag and gypsum in a Roller Mill. Ground product is then used as a cement additive. The APC Permits and Certificates also will allow Portland cement to be brought and stored on-site for distribution off-site.

Enclosed please find one (1) copy of the public notice, fact sheet, APC permit applications, and draft Conditions of Approval. Please make these documents available for public review until September 1, 2000.

If you have any questions, please call Joel Leon, of my staff, at (609) 984-3019.

JL/slh

c: W. O'Sullivan

I Atay

J. Cobb

A. Ryan

Received Time Aug. 23. 2:29PM

EXHIBIT B

STATE OF NEW JERSEY
DEPARTMENT OF ENVIRONMENTAL PROTECTION

NOTICE OF PROPOSAL TO APPROVE AIR POLLUTION CONTROL PERMITS TO
CONSTRUCT AND CERTIFICATES TO OPERATE
PURSUANT TO N.J.A.C. 7:27-8

Take notice that the New Jersey Department of Environmental Protection (Department) will accept public comments on a proposal to operate a Granulated Blast Furnace Slag (GBFS) Grinding facility in Camden, New Jersey.

NAME AND LOCATION OF THE PROPOSED FACILITY

St. Lawrence Cement Company
2500 Broadway
Camden, New Jersey 08104

FACILITY AND PROJECT DESCRIPTION

GBFS is a by-product of the iron manufacturing process. The material is similar to coarse beach sand in appearance and is composed of Oxides of Silicon, Aluminum, Calcium, Magnesium, and Sulfur with traces (<0.5% by weight) of other metallic oxides. The other raw material that would be used at the facility is Gypsum, a white colored mineral. The Gypsum would be blended with the GBFS prior to the grinding.

The facility at the present time plans to unload the GBFS at the Beckett Street Terminal and transport the material by truck to the Broadway location. Currently, the Broadway facility does not have the infrastructure in place to off-load the GBFS shipments directly.

Portland Cement would also be delivered to the site by ship for distribution off-site. Portland Cement would be stored in fully enclosed silos, which would be controlled by baghouses.

Upon delivery, unprocessed GBFS and Gypsum would be stored in large open piles. The facility would reduce dust emissions from the open piles using best dust management practices, including water sprays. In addition, GBFS exhibits a natural tendency to crust over when exposed to moisture and ambient air over time, which further minimizes the potential for fugitive particulate emissions.

The following manufacturing procedures would take place at the facility. First oversized materials would be removed from GBFS and Gypsum using a vibrating screen. Materials would then be transported through a series of covered conveyors to a roller mill. The roller mill would be equipped with a heater to generate enough heat to remove moisture from the material. The heater will burn primarily natural gas, with propane as the backup fuel. The roller mill would grind the material to the desired size. The

material would then resemble powdered sugar. The material would then be conveyed to storage silos with baghouse control. Material would be transported from the facility using either trucks or ships.

The sources processing the finely ground material would be vented to baghouses. These sources include the storage silos, ship loader, roller mill, and most of the conveyors. Conveyors that are not fully enclosed will carry the coarse, unground GBFS and Gypsum. These conveyors would be covered and would be subject to water spraying of the raw materials as necessary to minimize dust emissions.

MAXIMUM ALLOWABLE AIR CONTAMINANT EMISSION RATES. ANNUAL BASIS

The following table lists the maximum allowable emissions on an annual basis, in tons per year, for the entire St. Lawrence facility:

CONTAMINANT	MAXIMUM ANNUAL EMISSION RATE IN TONS PER YEAR
Nitrogen oxides, as nitrogen dioxide	16.7
Volatile Organic Compounds	1.71
Sulfur dioxide	0.63
Total suspended particulates	44.05
PM-10 (fine particles)	43.68
Carbon monoxide	14.7
Lead	0.001
Manganese	0.44
Mercury	0.001

APPLICABLE SECTIONS OF THE AIR POLLUTION CONTROL REGULATIONS

N.J.A.C. 7:27-3 "Control and Prohibition of Smoke from Combustion of Fuel" -*

N.J.A.C. 7:27-4 "Control and Prohibition of Particles from Combustion of Fuel" -*

N.J.A.C. 7:27-5 "Prohibition of Air Pollution"

N.J.A.C. 7:27-6 "Control and Prohibition of Particles from Manufacturing Processes"

N.J.A.C. 7:27-8 "Permits and Certificates"

N.J.A.C. 7:27-9 "Sulfur in Fuels" -*

N.J.A.C. 7:27-16 "Control and Prohibition of Air Pollution by Volatile Organic Compounds"

N.J.A.C. 7:27-19 "Control and Prohibition of Air Pollution from Oxides of Nitrogen" -*

*-These sections apply to the on-site combustion equipment.

AIR CONTAMINANT EMISSION MODELING

Air Contaminant Emissions Modeling has been conducted for particulate emissions (PM-10), Lead, and Magnesium (III) Oxide, pursuant to N.J.A.C. 7:27-8.5. PM-10 is particulate matter smaller than 10 microns in diameter. This modeling predicts worse case ground level air contaminant concentration. Based on this modeling, emissions from the proposed facility are not expected to cause or significantly contribute to a violation of a National Ambient Air Quality Standard or the PM-10 Class II Prevention of Significant Deterioration increments. The air quality standards are set to protect public health and welfare. The prevention of significant deterioration limits are set to limit the deterioration of clean air. The hazard indices resulting from the lead and manganese emissions are predicted to be less than one, which is considered to be a negligible health risk.

RADIOACTIVE SUBSTANCES

The Department is aware that GBFS from some locations may contain naturally occurring radioactive substances from the limestone used in iron and steel production. Hence, the Department has analyzed samples of the GBFS for naturally occurring radioactivity and, based on the data obtained, has determined that the resulting products will not present an unacceptable risk to the public or the environment. In addition, the Department has proposed limits on the concentration of naturally occurring radioactive materials that may be present in the raw materials and will monitor both raw material and the site to ensure compliance with these limits.

OPPORTUNITY FOR COMMENTS:

The purpose of this notice is to advise all interested parties of the intent to approve the Permits to Construct and Certificates to Operate for the proposed GBFS Grinding Facility, Camden, New Jersey, and to solicit comments on the proposed Conditions of Approval. Public Comments will be accepted in writing by letter postmarked by August 31, 2000. Persons wishing to comment in writing on this proposed GBFS Grinding Facility may also submit their written comments to Iclal Atay, Chief, Bureau of Air Quality Engineering, New Jersey Department of Environmental Protection, P.O. Box 27, Trenton, New Jersey 08625. A public hearing will be held August 23, 2000 at the Camden County Municipal Utilities Authority (CCMUA) Auditorium, 1645 Ferry Avenue, Camden, New Jersey at 7:00 PM. The public hearing

will continue until all persons present have had the opportunity to present their comments, but will end not later than 10:00 PM. At the public hearing, written and oral comments will be accepted by the Department.

All persons who believe that his proposal would not comply with any applicable air pollution control regulation should raise all reasonably ascertainable issues, and submit all reasonably available arguments and factual grounds supporting their position, including all supporting material, by the close of the public comment period. All oral comments made and written comment submitted by interested persons in response to this notice, within the time limit, will be reviewed by the Department and will be considered in the development of the final decision regarding this application.

TO OBTAIN COPIES OF AIR PERMIT DOCUMENTS

Copies of the applications for the Air Pollution Control Permits to Construct and Certificates to Operate a GBFS Grinding Facility, the draft permit conditions of approval, and a fact sheet summarizing the Department's evaluation of the proposed application, may be inspected locally at the Office of the Municipal Clerk, Room 105, 520 Market Street, City of Camden, Camden, New Jersey between the hours of 9:00 AM and 4:30 PM on working days. These documents may also be inspected at the offices of the New Jersey Department of Environmental Protection, Air Quality Permitting Program, Bureau of Air Quality Engineering, 401 East State Street, 2nd Floor, Trenton, New Jersey 08625 and at the Southern Regional Field Office, New Jersey Department of Environmental Protection, 2 Riverside Drive, One Port Center, Suite 201, Camden, New Jersey 08102. The fact sheet and additional information may be obtained by calling Diane Yarson at (609) 984-3023 between 9:00 AM and 4:00 PM on working days.

Approved by:



Isal Atay, Chief

Bureau of Air Quality Engineering

7/21/2000
Date

ST. LAWRENCE CEMENT COMPANY, INCORPORATED
CAMDEN, NEW JERSEY

GRANULATED BLAST FURNACE SLAG GRINDING FACILITY APPLICATION

FACT SHEET

Iclal Atay, Ph.D., Chief
Bureau of Air Quality Engineering
New Jersey Department of Environmental Protection

Received Time Aug. 23. 2:20PM

TABLE OF CONTENTS

- A. Summary
- B. Emission Sources and Description of the Facility
 - 1. Flow of Granulated Blast Furnace Slag (GBFS) in the Facility
 - 2. Locations of Air Contaminant Emissions
 - a. Handling of GBFS
 - b. Conveying and screening of GBFS
 - c. Grinding and drying of GBFS
 - d. Storage, Handling, and Shipping GBFS and cement
- C. Air Pollution Control Measures
 - 1. Fugitive Emission Control for Off-loading and Stacking and Storage Piles
 - 2. Emission Control of Conveyors and Screen
 - 3. Emission Control for the Roller Mill (grinding and drying process)
 - 4. Emission Control for Storage, Handling, and Shipping
 - 5. Dust Management Plan
 - 6. Radioactive Substances
- D. Truck Traffic
 - 1. GBFS and Gypsum Delivery Truck Traffic
 - 2. GranCem and Portland Cement Removal Truck Traffic
- E. Air Quality Modeling
 - 1. Modeling Methodology
 - 2. Modeling Results
 - a. NAAQS and PSD Increment
 - b. Risk Assessment
- F. Determination of Compliance with Air Quality Protection Requirements
 - 1. Testing
 - 2. Monitoring
 - 3. Recordkeeping
 - 4. Ambient Air Quality Monitoring
 - 5. Reporting

A. Summary

St. Lawrence Cement Company, Incorporated (St. Lawrence) has proposed to operate a facility at the South Jersey Port site in Camden. Granulated Blast Furnace Slag (GBFS) and gypsum would be brought to the facility and ground into a fine powder. This powder would then be used as a cement additive. The facility would also serve as a cement distribution location. The significant equipment that St. Lawrence has proposed to construct and operate includes a 51 million British Thermal Unit per hour (BTU/hr) heater, a roller mill, a screener, and several conveyors. The GBFS would be delivered to the Beckett Street Terminal in Camden and then would be transported to the St. Lawrence facility via trucks. The GBFS would be off-loaded from trucks and placed in one of two large piles.

The Department reviewed the proposed permit applications to ensure compliance with all applicable air quality protection rules. The Department has proposed requirements in the permits to ensure the emissions of air contaminants would be minimized by employing best air pollution control technologies and operating practices. The draft permits also contain emissions testing, monitoring, recordkeeping, and reporting requirements to determine compliance with the air pollution control requirements.

B. Emission Sources and Description of the Facility

1. Flow of Granulated Blast Furnace Slag (GBFS) in the Facility

The GBFS enters the facility in trucks and is off-loaded. The GBFS, when it enters the facility, has the appearance and feel of beach sand. After delivery, it is placed in a diesel engine powered stacker, which creates storage piles. From the storage piles, the GBFS is charged with a front end loader to a hopper from which it travels through a series of conveyors to the Roller Mill. In the Roller Mill, the GBFS is ground and dried. The ground GBFS is placed in storage silos. From the silos, the ground GBFS is mixed with cement and then distributed as a cement product. Gypsum may also be ground with the GBFS in the Roller Mill.

2. Locations of Air Contaminant Emissions

a. Handling of GBFS

Fugitive dust emissions would be generated from the handling and movement of the GBFS. This includes unloading the GBFS from trucks, stacking the GBFS, and placing the GBFS in the hopper.

b. Conveying and screening of GBFS

On the conveyors, the GBFS may be emitted to the atmosphere as an air contaminant by its movement and the wind. The GBFS is constantly being placed on the conveyor, moved, and then dropped off the conveyor. A vibrating screen

is used to ensure that the Roller Mill processes no oversized material in the GBFS.

c. Grinding and Drying of GBFS

In the Roller Mill, the GBFS is ground to a fine powder. This grinding action results in a large stream of ground GBFS leaving the Mill. There are air contaminants generated from the grinding of GBFS and burning of natural gas. This burning provides the heat used to dry the ground GBFS.

d. Storage, Handling, and Shipping GBFS and Cement

Ground GBFS emissions may be generated when the GBFS is placed in the silos, combined with cement, and off-loaded for delivery off-site.

C. Air Pollution Control Measures

Measures and restrictions have been incorporated into the draft Permits to Construct and Certificates to Operate in order to minimize the generation of air contaminant emissions and ensure that all Air Pollution Control Regulations would be complied with. In addition, best air pollution control equipment design is required to minimize air contaminant emissions. These are outlined below:

1. Fugitive Emission Control for Off-loading and Stacking and Storage Piles

The fugitive emissions are controlled in several ways. The primary controls are water sprays to keep the GBFS wet and minimize any areas from which fugitives are being emitted. Roads at the facility would be swept as needed and would be watered every hour during delivery. The GBFS piles would be open to the atmosphere. Fugitive particulate emissions from the piles are minimized through keeping the material wet. Also, a natural crusting would form on the GBFS that is exposed to air on the outside of the piles. This crusting on the piles would deter particles from being blown off by the wind.

2. Emission Control of Conveyors and Screen

The conveyors would be covered, except for a two-inch gap between the edge of the conveyor and cover. The cover would help prevent the wind from blowing particles off of the conveyor. The conveyor is designed to have a larger volume than the GBFS being moved, which would aid in keeping particles from falling over the sides of the conveyor. Also, the moisture applied prior to the GBFS being placed on the conveyor would keep the particles together and would prevent them from entering the air. The vibrating screen would be within an enclosure, which would protect it from the wind and reduce the release of particles to the air.

3. Emission Control for the Roller Mill (grinding and drying process)

The Roller Mill would be controlled with a baghouse. The baghouse would operate

similar to a vacuum cleaner, capturing particulates in filters, and then discharging the cleaned exhaust stream to the atmosphere. The fuel used in the heater would be natural gas. This is a clean burning fuel, and produces much less emissions of particulates and sulfur oxides than other fuels.

4. Emission Control for Storage, Handling, and Shipping

The silos which store the ground GBFS, the air slides and the bucket elevator which move the GBFS, and the truck loading operations would be all enclosed and vented to baghouses.

5. Dust Management Plan

For the entire facility, a Dust Management Plan (DMP) would be prepared and implemented. The DMP would include daily inspections of each section of the facility to ensure that no visible particulate emissions and no accumulations of dusty material are occurring. Facility personnel would follow a written checklist, which would outline exactly what must be inspected. The DMP would also outline corrective actions that would have to be taken should visible dust emissions be observed. The Department would have the authority to modify the DMP if visible emissions are observed.

6. Radioactive Substances

The Department is aware that GBFS from some locations may contain naturally occurring radioactive substances. Hence, the Department has analyzed samples of the GBFS for naturally occurring radioactivity and, based on the data obtained, has determined that the resulting products will not present an unacceptable risk to the public or the environment. In addition, the Department has set limits on the concentration of naturally occurring radioactive materials that may be present in the raw materials and will monitor both raw material and the site to ensure compliance with these limits.

D. Truck Traffic

1. GBFS and Gypsum Delivery Truck Traffic

The GBFS to be processed by the facility would be shipped to South Jersey Port Corporation's Beckett Street Terminal. At the port the GBFS would be transferred to trucks and hauled a distance of approximately three miles south to the project site, which is located at the northwest corner of the Broadway Terminal. From the Beckett Street Terminal, the truck transportation path would proceed south on 2nd Avenue, turn east on Atlantic Avenue, and take the entrance onto Interstate 676. Once on Interstate 676, the trucks would travel south to the west exit for Morgan Avenue. They would only be briefly on Morgan Avenue before turning right onto the yet to be constructed plant access road. Up to 848,771 tons of GBFS would be transported by truck from the Beckett Street Terminal to the facility each year. In addition, up to 16,535 tons of gypsum for use as an additive would also be delivered to the Beckett Street Terminal and transported to the site along the same route.

Transport of GBF from the Beckett Street Terminal to the C site to replenish the GBFS storage piles would occur approximately eight times per year. Each of these replenishment periods would last for 7-10 days, with up to 500 truck deliveries per day. On an annual basis, there could be up to 35,240 truck deliveries from the Beckett Street Terminal to the SLC site. Transport of gypsum from the Beckett Street Terminal to the site to replenish the gypsum storage pile would occur two days per year, with up to 343 gypsum delivery trucks per day.

Delivery of the GBFS and gypsum would be limited to the hours from 6 a.m. to 11 p.m., because this time period was addressed in the air quality evaluation.

2. GranCem and Portland Cement Removal Truck Traffic

The 771,610 tons of GranCem product produced each year would be transported off-site by either barge or truck. In addition, up to 220,460 tons per year of Portland cement would be transported off-site by trucks similar to those used to transport the GranCem. Portland cement produced at other facilities would also be brought to the site by barge and stored in silos.

The transport of GranCem and Portland cement off-site by truck would occur up to 225 days per year (mainly in the spring, summer, and early autumn). If all GranCem is transported offsite by truck, not barge, up to 142 truck trips per day would be removing GranCem from the SLC site. A maximum of 41 truck trips per day would be transporting Portland cement off-site. On an annual basis, there could be up to 32,037 truck trips transporting GranCem from the SLC site and up to 9,153 truck trips transporting Portland cement from the SLC site. There would not be air quality related restrictions on the time of day when trucks would be allowed to transport GranCem and Portland cement off-site.

NOTE: GranCem is a registered St. Lawrence tradename for Ground GBFS.

E. Air Quality Modeling

1. MODELING METHODOLOGY

Emissions of air pollutants from the proposed facility were mathematically modeled in order to predict their contribution to ground-level concentrations beyond the facility's fenceline. Predicted concentrations from the proposed source were added to existing background pollutant levels and compared with National (NAAQS) and New Jersey standards and health risk criteria. The primary ambient air quality standards and New Jersey health risk criteria were established to protect public health with an adequate margin of safety. The pollutants included in the modeling analysis were particulate matter (PM-10), manganese, radioactive material, and lead. PM-10 is particulate matter that is 10 microns or less in size. These particles can accumulate in the respiratory system and are associated with adverse health effects.

Modeled impacts were also compared to the USEPA's Prevention of Significant Deterioration (PSD) increments for PM-10. The PSD increments were established by Congress in the 1977 Clean Air Act. A PSD increment is the maximum increase in a

pollutant's concentration that is allowed to occur above an earlier established baseline value. The purpose of the PSD increments is to limit the amount an area's air quality is degraded by new development and emission increases.

The Industrial Source Complex Short Term (ISCST3) model (version 99155) was used because of its ability to assess all of the source types at the proposed facility (multiple point and volume sources). The regulatory default options were used. The proposed facility would be located in an area classified as urban. Five years (1991-1995) of surface weather data from Philadelphia International Airport and upper air data from Atlantic City were used (Brookhaven upper air data was used for the latter part of 1994 and all of 1995). Philadelphia International Airport is approximately 7.5 miles southwest of the project site, and its meteorological measurements are considered representative of the project site.

Receptors at which the model predicts concentrations were placed at 100 meter intervals along the facility's fenceline. A Cartesian Grid was used with receptors spaced every 100 meters out to a distance of 2.5 kilometers from the site, and every 500 meters from 3 to 10 kilometers from the site. Concentrations were predicted at a total of 2,726 receptors for every hour of the five years of meteorological data. The baghouses and fabric filters which control emissions from the roller mill, the slag bucket elevator, the storage silos, the truck bulk loader, and the ship loader were modeled as point source stack emissions. The vast majority of particulate emissions from the proposed facility are projected to be emitted through these stacks. The aerodynamic downwash of the stacks' plumes that would be caused by nearby structures and buildings (principally the six product storage silos) was included in the modeling. Fugitive particulate emissions at the proposed facility from the material handling operations (i.e., wind erosion of the slag and gypsum stockpiles, and from the on-site truck traffic on the paved roads and unpaved areas) were modeled as volume sources.

2. MODELING RESULTS

a. NAAQS and PSD Increment

Modeling results were compared to the significance levels, National Ambient Air Quality Standards (NAAQS), and the Class II PSD increments for PM-10. As shown in Table 1, the proposed facility's impacts of PM-10 are above both the 24-hour and annual PM-10 significance levels, and the lead 3-month impact is below its significance level.

Maximum impacts were generally predicted to occur 100 to 200 meters (328 to 656 feet) east of the facility. The point source stack emissions from the Saint Lawrence facility account for approximately 80 to 90 percent of the highest PM-10 concentrations modeled.

Because the maximum predicted PM-10 impacts exceeded the significance levels, multisource analyses were conducted to show compliance with the PM-10 air quality standards and the Class II Prevention of Significant Deterioration increments. In the air standards multisource analysis, twenty stacks at twelve different facilities within 11.8 km (7.3 miles) of the Saint Lawrence site were included. The PM-10 impacts due to emissions from the proposed Saint Lawrence Cement facility and the 20 other stacks was added to

the monitored PM-10 background concentration (from the DEI ambient air monitoring station at Camden Lab). Camden Lab is located behind the Institute of Medical Research at Copewood and Davis Streets in Camden, approximately 1.5 miles east-northeast of the Saint Lawrence Cement site. As Table 1 shows, the combined PM-10 impacts are predicted to be below the 24-hour and annual NAAQS for protection of public health.

Use of the entire PSD PM-10 increment has the potential of restricting future economic growth in the surrounding area. Because Saint Lawrence Cement's 24-hour impacts approach the PSD Class II increment, a more detailed multisource analysis of PM-10 increment consumption in the area was conducted. The multisource PSD Class II increment analysis included PM-10 emissions from the proposed facility and the following three nearby sources whose emissions also consume PSD increment: Camden County RRF, Camden Cogeneration, and the Philadelphia Naval Shipyard. The results presented in Table 2 show that the proposed emissions from the Saint Lawrence Cement facility would not cause or contribute to a violation of the PM-10 PSD Class II increment. Saint Lawrence Cement was predicted to consume up to 92 percent of the 24-hour PM-10 increment. All sources combined were predicted to consume up to 95 percent of the 24-hour PM-10 increment. This relatively high consumption of the PM-10 increment may restrict future projects which emit particulates in the vicinity of the Saint Lawrence Cement facility.

b. Risk Assessment

In addition to the ambient air quality standard for lead, there is a NJDEP 24-hour reference concentration for lead of 0.1 ug/m^3 . There is also an annual NJDEP reference concentration of 0.05 ug/m^3 for manganese. In the modeling analysis, it was assumed the GBFS had a maximum manganese content of 12,200 ppm and a lead content of 27 ppm. These manganese and lead concentrations are listed by the proposed permit conditions as maximum allowable levels in the raw material. The maximum predicted 24-hour lead concentration of 0.0009 ug/m^3 is below the 24-hour reference concentration for lead of 0.1 ug/m^3 . The maximum predicted annual manganese impact of 0.0415 ug/m^3 is also below the reference concentration of 0.05 ug/m^3 . A pollutant concentration below its reference concentration is considered to have a negligible health risk.

The cancer risk caused by the radionuclide content of the GBFS and the resulting radiation dose exposure was evaluated. The 15 pico-curie maximum allowable GBFS radionuclide content listed by the proposed permit conditions was input into an USEPA model specifically designed to calculate radiation dose exposure (CAP88-PC model, version 2). The maximum radiation exposure at any off-site location was predicted to be 0.43 millirems per year, which results in a cancer risk of 6 in a million. The maximum predicted cancer risk at a nearby residence is 1.4 in a million. A predicted air quality risk of over one in a million is considered significant and requires particulate emission minimization. A predicted air quality risk of over 100 in a million is considered an unacceptable air quality risk.

TABLE 1. Comparison of Saint Lawrence Cement and Multisource Maximum Predicted Impacts to the NAAQS						
Pollutant/ Avg. Time	Saint Lawrence Maximum ($\mu\text{g}/\text{m}^3$)	Significance Level ($\mu\text{g}/\text{m}^3$)	Multisource Maximum ^(a) ($\mu\text{g}/\text{m}^3$)	Background Concentration ($\mu\text{g}/\text{m}^3$)	Multisource Combined Impact ($\mu\text{g}/\text{m}^3$)	Primary NAAQS ($\mu\text{g}/\text{m}^3$)
PM-10 24-Hour ^(b)	23.7	5.0	32.10	54	86.1	150
PM-10 Annual ^(c)	2.7	1.0	5.5	26.7	32.2	50
Lead 3-Month ^(d)	0.0009	0.1	e	0.099	0.100	1.5

- a. Represents the combined impact of Saint Lawrence Cement and 20 nearby major PM-10 sources.
 b. Highest, sixth-highest 24-hour PM-10 concentrations at a receptor over five years (1991-95).
 c. Highest PM-10 concentrations at a receptor averaged over five years (1991-95).
 d. 3-month concentration conservatively represented by maximum 24-hour lead impact.
 e. Saint Lawrence Cement impact below significance level, no multisource modeling necessary.

TABLE 2. Saint Lawrence Cement and Multisource Maximum Predicted Impacts Compared to the PSD Increment			
Pollutant/ Avg. Time	Saint Lawrence Max. Predicted Impact ($\mu\text{g}/\text{m}^3$)	Multisource Maximum ^(a) ($\mu\text{g}/\text{m}^3$)	Class II PSD Increment ($\mu\text{g}/\text{m}^3$)
PM-10 24-Hour ^(b)	27.5 (92%)	28.4 (95%)	30
PM-10 Annual ^(c)	3.4	3.5	17

- a. Represents the combined impact of Saint Lawrence Cement and three nearby PSD PM-10 sources.
 b. Highest, second-highest 24-hour PM-10 concentrations at a receptor during five years (1991-95).
 c. Highest annual PM-10 concentrations during five years (1991-95).

Indira Kitz - EPA
Goffman - EPA
Alamir PSI

Denny Lehman - EPA
215-814-2192
9

Received Time Aug. 23. 2:29PM

62.4

HUB-23-2000 17-00

F. Determination of Compliance with Air Pollution Control Requirements

1. Testing

A stack emissions testing program must be conducted on the stack for the Roller Mill, which grinds the GBFS, and Heater, which provides the energy to dry the GBFS. Particulates and three heavy metals (mercury, lead, manganese) will be sampled at the stack because these emissions are generated in the Roller Mill. Nitrogen oxides, carbon monoxide, and volatile organic compounds will also be sampled since these are generated as a result of the combustion of natural gas in the Heater. Before the stack test can be conducted, the sampling methods must be reviewed and approved by the Department. Department personnel will be present to witness the test. Also, the stack test results will be reviewed by the Department for acceptability.

2. Monitoring

Many aspects of the facility would be continuously monitored to ensure that the equipment is operating properly. Each baghouse would have its pressure drop monitored and recorded. A low pressure drop provides an indication that the filters within the baghouse may be broken. A high pressure provides an indication that the filters may have to be cleaned.

The hourly feed rate of GBFS and gypsum charged to the Roller Mill would be continuously monitored and recorded. This would ensure that the facility would be operated within its design processing rate and that the equipment would not be overburdened. Too high a processing rate could result in excess fugitive or stack emissions.

Through the use of the Dust Management Plan, potentially dusty areas of the facility would be monitored daily for the presence of visible emissions.

3. Recordkeeping

Parameters for operations within the facility that would have to be monitored would also be recorded. The maintenance of records would provide the means to the Department to verify that the facility is operating within the restrictions of its Permits and the parameters modeled to predict air quality effects. Recordkeeping would either be done by computer or done manually. All of these records must be made available to the Department upon request.

The number of trucks carrying GBFS and gypsum to the facility and ground GBFS and cement from the facility would be required to be recorded. The amount of water applied in the delivery area would also be recorded.

4. **Ambient Air Quality Monitoring**

A particulate ambient air quality monitor would be installed. This would measure the ambient particulate levels in the area of the facility. The Department proposes that the monitor location and type be subject to the Department review and approval. The monitor would be located in the area of maximum predicted impacts to ensure that the facility's air quality effects are acceptable everywhere.

5. **Reporting**

The facility would be required to report excess emissions, visible emission violations, and any off-property effects to the Department.



Robert C. Shinn, Jr.
Commissioner

EXHIBIT D

RESPONSIBILITIES OF THE ADVISORY COUNCIL ON ENVIRONMENTAL EQUITY

In furtherance of the role established for the Advisory Council by Administrative Order 1998-15, I hereby charge the Advisory Council with the following responsibilities:

- Making recommendations for strategies to promote Environmental Equity in New Jersey;
- Formulating strategic recommendations for building partnerships and trust with the many diverse communities within New Jersey;
- Providing assistance in refining the Department's Environmental Equity policy;
- Providing assistance in formulating the Department's process for incorporating Environmental Equity considerations into its permitting and other environmental decision-making;
- Providing advice and comment to the Department in developing the Environmental Equity process as rules for formal proposal in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.
- Developing guidance material for distribution to permit applicants for implementing an effective Environmental Equity community outreach program; and
- Serving on an ongoing basis as the Department's principal source of advice and counsel on Environmental Equity issues.

ENVIRONMENTAL EQUITY IMPLEMENTATION STRATEGIES

To the extent permitted by law, and, as necessary, following formal rulemaking in accordance with the Administrative Procedure Act, the Department will undertake to incorporate Environmental Equity considerations into its decision-making as follows:

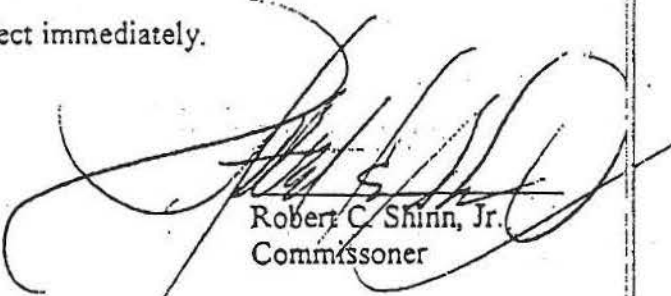
- The Department will work with the Environmental Equity Advisory Council and permit applicants to identify mechanisms for community notification regarding applications for new, modified, or renewal permits for major facilities, as well as facilities about which a local community has expressed Environmental Equity concerns, as early as reasonably possible within the permit application review process;
- The Department, in conjunction with the Advisory Council, will develop guidance for permit applicants for the administration of an effective Environmental Equity community outreach process with local communities;

- The Department will establish a mechanism for community outreach on Environmental Equity issues at the earliest feasible stage of the permit application process, that is, when permit applicants meet with Department staff at pre-application conferences. At pre-application conferences, Department staff will serve as advocates for the permit applicants' participation in voluntary community outreach and subsequent Environmental Equity discussions with local groups regarding the permit applications;
- The Department will utilize technical screening tools, its Geographic Information System, Toxic Release Inventory data, and other information resources to help permit applicants identify potential Environmental Equity issues at the earliest feasible stage of the permit application process;
- The Department will participate in discussions among permit applicants and local community stakeholders and attempt, where appropriate and permitted by law, to include in permits conditions that reflect agreements reached between the permit applicants and the local community stakeholders as to Environmental Equity issues;
- The Department may facilitate Alternative Dispute Resolution meetings among permit applicants and local community stakeholders to attempt to resolve disagreements identified in the course of Environmental Equity community outreach;
- The Department will work with permit applicants and the Advisory Council to develop methods for facilitating accessibility, understanding, and transfer of technical and scientific data to local communities;
- The Department will provide ongoing Environmental Equity training to appropriate Department managers and staff to the degree possible in line with available or obtained funds for such purposes;

This Administrative Order shall take effect immediately.

Date:

2/8/00


Robert C. Shinn, Jr.
Commissioner

**Infant Mortality Rate and Proportion of births of low birth weight (<2500grams),
Camden County and City of Camden, 1997 and 1998**

		Camden County		City of Camden	
		(N)	(%)	(N)	(%)
Low Birth Weight (per 100 births)	1997	612	8.6	233	13.1
	1998	621	8.7	234	12.8
Infant Mortality Rate		(N)	Rate		
(per 1000 births)	1997	60	8.5	NA	NA
	1998	69	9.7	NA	NA

Source: NJDHSS, Center for Health Statistics

Note: 1998 Data are provisional



News Release

PO 360
Trenton, NJ 08625-0360

For Release:
May 24, 2000

Christine Grant
Commissioner

For Further Information Contact:
Rita Manno
609-984-7160



Report Recommends Steps to Reduce Health Disparities in Minority Populations

TRENTON - Making strides to identify, address and reduce or eliminate health disparities in minority populations will take the combined efforts of community leaders, policy makers and the health care community.

That is the message of participants in the State's first minority health summit held last September and is one of numerous recommendations to improve health care and outcomes for minorities made today in a report to Health and Senior Services Commissioner Christine Grant.

"Health of Minorities in New Jersey: Part 1 -- The Black Experience" brought together more than 250 health care providers, elected officials, government and community leaders to examine ways to reduce or eliminate the differences in health status -- such as higher rates of disease and shorter life spans -- between New Jersey's black and white communities. A second minority health summit, addressing the Latino experience, will convene June 2nd and 3rd, 2000.

"New Jersey has taken the lead in shining a light on the issue of health disparities," said Commissioner Grant. "These groundbreaking summits and the recommendations they produce, along with the goals outlined in our Healthy New Jersey 2010 planning document, will serve as the cornerstones to improve the health status of all state residents."

Grant said she will convene a department-wide committee to evaluate today's report and a similar document expected after the Latino health summit in June and establish best practices for department activities and the health care community at large.

Grant noted the Department of Health and Senior Services has been active in a number of important minority health issues. Chief among those efforts, the department is presently in the third phase - educating health care providers - of a two-year, \$1 million black infant mortality awareness campaign known as BIBS, Black Infants, Better Survival. The department has also initiated and is

supporting grass-roots education and screening programs for breast and prostate cancer in African-American communities. The Department has also initiated a cultural competency training program for its many grantees.

Julane W. Miller-Armbrister, chief executive officer of the Plainfield Health Center and chairperson of the New Jersey Office of Minority Health's Advisory Commission, said, "No one group can take on this challenge and eliminate all racial and ethnic health disparities on its own. This report is a call to action to all segments of government, the health care industry, academia, and the state's diverse community leaders to work together to ensure health status parity."

The recommendations released today address available data on minority health and data collection issues; current health disparities and programs in other states that have shown promise in addressing disparities; the impact of HIV/AIDS on the African-American community; the importance of cultural competency among health care providers and others; and the work of the Office of Minority Health.

Among the recommendation issued today were calls for:

- Improving data collection by race and ethnicity, developing language and culturally appropriate survey instruments, and making data more accessible to the public.
- Increasing awareness of disparities and facilitating the exchange of best practices in addressing health disparities among organizations, providers, community groups and agencies.
- Increasing public awareness of the HIV/AIDS epidemic in the African-American community and developing culturally competent and accessible sources of care.
- Developing a Health and Senior Services Department-wide strategic plan to implement cultural competence standards in all department divisions and among department grantees and care providers.
- Facilitating partnerships across community-based organizations and various state and local systems to highlight and address minority health issues.

"It's important to remember statistics reflect actual state minority residents who for too long have disproportionately experienced illness and premature death," said summit planning committee member Dr. Denise V. Rodgers, Associate Dean of Community Health for UMDNJ-Robert Wood Johnson Medical School. "We first identified disparities some 15 years ago and despite our efforts they still exist. We need to use the recommendations in this report and ensure that 15 years from now there are no health disparities."

"These recommendations are broad and to have the desired effect will require many agencies, groups and organizations to change the way they do business internally and in concert with their community partners," said Office of Minority Health Director Linda Holmes.

###



CAMDEN REGIONAL LEGAL SERVICES, INC.

745 MARKET STREET
CAMDEN, NJ 08102-1117
PHONE (856) 964-2010, ext. 232 FAX (856) 338-9227
TDD (856) 964-1204 (FOR HEARING OR SPEECH IMPAIRED)

JEANNE MCGUIRE
EXECUTIVE DIRECTOR

OLGA D. POMAR
COMMUNITY ECON. DEV. COORD.

October 4, 2000

Commissioner Robert C. Shinn, Jr.
NJ Dept. of Environmental Protection
P.O. Box 402
Trenton, NJ 08625-0402

Re: St. Lawrence Cement Co., Camden, NJ

Dear Commissioner Shinn:

Please accept this as a complaint utilizing grievance process pursuant to 40 CFR 7.90 of the U.S. Environmental Protection Agency's (EPA) Civil Rights Regulations. We are not aware of a specific format or procedure established by the DEP to process grievances in accordance with this regulation, so we are submitting the request for a grievance hearing in this form. Please send us written documentation of your protocol for filing grievances pursuant to the federal regulation, if there is such a protocol established.

I. INTRODUCTION

This is a complaint made to the New Jersey Dept. of Environmental Protection (DEP) made by South Camden Citizens in Action (SCCA), a community organization, acting on behalf of residents residing in the neighborhood known as Waterfront South in Camden, NJ, and [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] all residents of Waterfront South, as individuals. The complainants allege that DEP has conducted its permitting process with regard to the above-named facility in a manner which violates civil rights regulations by discriminating against persons on the basis of race, color, and national origin. This complaint is made pursuant to U.S. Environmental Protection Agency's (EPA) Civil Rights Regulations, 40 CFR 7.90, which require every recipient of Federal assistance to adopt grievance procedures that assure the prompt and fair resolution of complaints which allege violation of civil rights.

The Code of Federal Regulations prohibit a recipient receiving EPA assistance from using criteria or methods of administering its program which have the effect of subjecting individuals to discrimination because of their race, color, national origin, or sex, and shall not choose a site

Commissioner Robert C. Shinn, Jr.
October 4, 2000
Page Two

or location of a facility that has the purpose of excluding individuals from, denying them the benefits of, or subjecting them to discrimination under any program to which this part applies on the grounds of race, color, or national origin or sex. 40 CFR 7.35 (b) and (c). The DEP is a recipient of assistance from the EPA and its actions are governed by this section of the federal regulations.

The St. Lawrence Cement Company (SLC) has applied for permits to build and operate a cement grinding facility in the Waterfront South neighborhood. SCCA alleges that the actions of DEP in evaluating the permit applications submitted by SLC violate civil rights regulations because they have a disparate adverse impact upon the minority residents of Waterfront South. As the permit has not yet been issued by DEP, this request for a grievance only concerns the process utilized by DEP in evaluating the permit application.

II. FACTUAL BACKGROUND

SLC's proposed cement plant will use granulated furnace slag to grind and make into cement powder. The raw materials will be shipped into a port terminal upriver and transported to the facility. The polluting effects of this facility includes emission of more than 60 tons per year of TSP, almost 60 tons of which is PM-10, and most of which will constitute PM-2.5 particulates. The cement facility will also generate very large amounts of truck traffic, with a total of 77,116 trucks making deliveries or distributions of the facilities products. The added truck traffic would cause significant increase of carcinogenic diesel exhaust fumes, resulting in higher levels of carbon monoxide and greater frequency of non-attainment with regard to the ozone air quality standards, traffic congestion, and added danger of exposure to latex. The greatly increased traffic would also further degrade the quality of life and safety of the neighborhood through noise, damage to streets and foundations, and danger to pedestrians and other drivers. SLC operations will also use or cause the emission of low levels of manganese, radioactive materials, silica, lead, mercury, nitrogen oxides, carbon monoxide, volatile organic compounds, sulfur oxides, and other polluting elements.

The Waterfront South neighborhood, corresponding to census tract #6018, contains a total of 464 households, and 2,132 people. The population of this neighborhood is 61.7% African-American and 28.4% Hispanic. In contrast, the surrounding region of Camden County is only 16.2% African-American and 7.2% Hispanic. While Camden County is a fairly affluent area, with 1990 median household income of \$40,027, per capita income of \$15,773, and a poverty rate of only 10.3%, the Waterfront South community had a 1990 median income of \$15,082, per capita income of only \$4,709, and over one-half of residents with incomes at or below the federal poverty line.

The Waterfront South neighborhood is an extremely polluted area, containing two Superfund sites, additional sites on the EPA's CERCLIS list, and thirteen other sites on the DEP's list of known contaminated sites. The Waterfront South neighborhood was selected to be the host site for a large regional sewage treatment plant, the County's trash-to-steam incinerator, and the

Cogen Plant. There are numerous heavy industrial uses in Waterfront South which also add to pollution in the neighborhood. The existing industries in Waterfront South generate large amounts of heavy truck traffic, generating diesel fumes and noise, damaging streets and foundations, and creating safety hazards.

Enforcement of air quality, odor, noise, health, traffic, and other regulations at Waterfront South has been very weak for many years. The result of these environmental conditions is that Waterfront South has become a severely blighted, impoverished, and environmentally devastated neighborhood. This year the City of Camden determined that Waterfront South met the criteria for "area in need of redevelopment" pursuant to N.J.S.A. 40:12A.

Camden City and especially Waterfront South residents experience numerous health problems. Camden City has a much higher infant mortality and low birth weight rate than the norm in the state. An odor study conducted in 1997 by the Monell Chemical Sciences Center determined that many residents of Waterfront South had an impaired sense of smell, that the self-reported asthma rate for Waterfront South residents was 33%, which more than twice that of another Camden City neighborhood, and as many as 61% of Waterfront South residents reported respiratory related symptoms. It is well known that the asthma rate in the neighborhood is very high.

A Waterfront Development permit and two general permits have already been granted to SLC by DEP. Proposed conditions for the operating permits regulating air emissions, PCP990001, PCP990002, PCP990004, PCP990005, and PCP990006, were issued, and a public hearing was held on August 23, 2000. SLC was allowed to construct the facility pending a decision on the application and construction is near completed.

III. VIOLATIONS PURSUANT TO 40 CFR 7.35

The DEP violated the civil rights regulations through the process utilized in the permit application as follows:

1. The DEP did not conduct any investigation or analysis to determine whether the siting of this facility in this neighborhood would have an unjustified adverse disparate impact upon the community members.

Title VI of the Civil Rights Act and its implementing regulations prohibit discrimination under any program or activity receiving EPA assistance against any person on the basis of race, color or national origin. 40 CFR 7.35(b). The federal Environmental Protection Agency (EPA) has recognized that pursuant to Title VI all persons are therefore entitled to a safe and healthful environment. The federal regulations prohibit a permitting agency which is a recipient of federal financial assistance from siting facilities in locations which would have discriminatory effects. To ensure that a disparate adverse impact does not occur, the EPA recommends that recipients conduct studies of impact on a particular community, its demographics and its existing

environmental conditions. The guiding principles in implementing Title VI include the propositions that "potential adverse disparate cumulative impacts from stressors should be assessed and reduced or eliminated wherever possible; research efforts into the nature and magnitude of exposures, stressor hazards, and risks are important and should be continued." EPA's *Draft Revised Guidance for Investigating Title VI Administrative Complaints Challenging Permits*.

The DEP did not, to complainants' knowledge, conduct any investigation as to the racial and ethnic composition of the Waterfront South neighborhood, the history of siting polluting facilities that adversely affect that neighborhood, the current environmental condition of the neighborhood, or the health of the residents while processing the permit application. The DEP also failed to do a comparison with the surrounding county. There is no evidence in any of the permit application data, the fact, sheet, public notice, or permit conditions which would suggest that such an analysis was ever conducted. The DEP looked only at whether the NAAQS for certain air pollutants, particularly PM-10, would be met. At the public hearing, the hearing officer specifically stated in response to a question that, because the NAAQS were met, there was no harmful effects from the facility, and that there was no additional analysis performed regarding the demographics or environmental conditions in this particular community.

According to the EPA's *Draft Revised Guidance for Investigating Title VI Administrative Complaints Challenging Permits*, compliance with environmental laws does not per se constitute compliance with Title VI, as the laws may not regulate certain concentrations or take into account effect on particular subpopulations.

The DEP also failed to consider the total impact of the facility. It completely ignored the effects of the massive amount of truck traffic to be generated by SLC on air quality, noise levels, and other environmental concerns.

In addition, the DEP's permitting process did not provide for evaluation of the health effects of a facility in light of the conditions in the particular area where it is to be sited. The neighborhood already has a high level of asthma and respiratory problems, which is found frequently among minority populations. The particular pollutants to be emitted by SLC cause or aggravate respiratory conditions.

The DEP's analysis also does not consider cumulative and synergistic impacts from the numerous stressors that are experienced by the residents of this neighborhood. It considered only the level of contamination in the region from a particular contaminant, but not the health effects of being simultaneously bombarded by so many pollutants from so many different sources.

The DEP knew or should have known that the siting of the SLC facility in Waterfront South would be adversely impacting a predominately African-American and Hispanic, very low-

income community which is already environmentally contaminated and overburdened with polluting facilities. The procedure used by the DEP is in violation of the federal regulations, as it did not provide for investigation of the area, study of the cumulative effects of stressors, particular health problems of the resident population, or an analysis of potential disparate impacts.

2. The SLC was allowed to construct the facility pending the evaluation of the permit.

Approval for construction was given presumably pursuant to N.J.S.A. 26:2c-9.2j, which states, in relevant part: "Except as otherwise prohibited by federal law, any person who has submitted to the department an application for a permit to construct, reconstruct, install, or modify equipment or control apparatus may place that equipment or control apparatus on the footings or foundations where it is intended to be used during the pendency of the permit application review process." See also N.J.A.C. 7:27-8.4.

"Federal law" includes federal Title VI civil rights laws and regulations. DEP did not investigate whether there was a violation of Title VI regulations before allowing SLC to build the facility, although information readily available to the DEP, including census tract data, CERCLIS and Toxic Release Inventory lists, and its own investigations, make evident that this is a predominately minority, heavily environmentally impacted area, and that the construction of the facility is likely to create an unjustified adverse disparate impact.

3. The DEP did not provide for meaningful public participation

In its *Draft Interim Guidance*, the EPA stresses the importance of meaningful public participation early and throughout the decision-making process as a means for ensuring that discriminatory effects do not occur from permitting decisions. In this case, the Waterfront Development Permit, permission to construct the facility "at risk", and two general permits was given by the DEP to SLC early in the permitting process without any public notice or participation. The community was never asked for any input as to whether they viewed the facility as desirable. The construction of the facility made its siting appear inevitable and this further stifled community participation. The lack of community input is reflected in the fact that SLC has made only very minor changes to the original proposal as set forth in their permit application.

Furthermore, the DEP knew or should have known that the community had a significant Hispanic population of more than 25%. It made no attempts, to complainants' knowledge, to issue notices, fact sheets, or other information in Spanish or conduct any meetings with the community with Spanish translation available. The DEP therefore failed to involve a major part of the community in the public participation process.

The public participation process was also flawed because the notice and fact sheet given to the public regarding the public hearing and the permit conditions was inadequate and inaccurate. As the general permits previously granted by DEP also allow PM-10 emissions, the notices for the permits now under consideration are misleading. They state that the total PM-10 emissions are only 43.68 tons/year, while the actual emission level authorized by the DEP, including the general permits, is 59.14 tons/year. In addition, the fact sheet and notice gave information only as to the total amount of emissions that the facility is allowed to emit. That number assumes that all equipment functions properly at all times and makes no allowance for unusual meteorological conditions, emergencies, or human error. The public has received no information regarding the validity of estimates of fugitive emissions or how the DEP factored the possibility of fugitives into its analysis of the potential health and safety risks created by this facility.

4. The DEP has failed to enforce its own Environmental Equity Policy

In February of this year, the DEP Commissioner issued Administrative Order 2000-01, which provides that there be fair and equitable treatment in environmental decision-making of all of the citizens of all New Jersey communities regardless of race, color, income or national origin. The Order states that there must be community outreach and use of GIS and Toxic Release Inventory data and other information to identify Environmental Equity issues. It also promotes use of agreements between an applicant and community stakeholders as part of permit conditions, with use of Alternate Dispute Resolution techniques recommended if needed. This Environmental Equity policy was enacted presumably in order to further compliance with Title VI. The policy has not been formally implemented despite its issuance seven months ago and was not utilized in the permitting process for St. Lawrence Cement.

IV. RELIEF REQUESTED

Complainants request that:

1. The DEP provide them with a written statement of the DEP's grievance procedures pursuant to 40 CFR 7.90;
2. The DEP grant them a grievance hearing or other procedure to address the issues presented in this complaint;
3. The DEP not issue any permits or certificates to SLC until the issues presented have been addressed;
4. The DEP promulgate criteria and methods of administration for the review of permit applications that will protect against discrimination against minorities and then apply these criteria and methods for review of SLC's permit applications;
5. The DEP undertake a full investigation and analysis of the Waterfront South neighborhood in comparison to Camden County and of all data that would be relevant to a determination of whether the grant of a permit to SLC siting of this facility would violate the civil rights of the residents of Waterfront South.

Commissioner Robert C. Shinn, Jr.
October 4, 2000
Page Seven

Respectfully submitted,

Olga D. Pomar, Esq.
Community Econ. Dev. Coord.
Camden Reg. Legal Services
745 Market Street
Camden, NJ 08102

Jerome Balter, Esq.
Director, Environmental Law Project
Public Interest Law Center of Philadelphia
125 South 9th Street, Suite 700
Philadelphia, PA 19107

Prof. Sheila Foster, Esq.
Associate Professor of Law
Rutgers-Camden School of Law
4th and Penn Streets
Camden, NJ 08101

cc: U.S. Dept of Environmental Protection
South Camden Citizens in Action